

AMENDED IN ASSEMBLY JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1079

Introduced by Assembly Member V. Manuel Perez

February 27, 2009

An act to add Section ~~71105~~ 71103.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1079, as amended, V. Manuel Perez. Environment: California-Mexico border.

Existing law creates the California Border Environmental and Public Health Protection Fund. The money in that fund is available, upon appropriation, to the Secretary for Environmental Protection to assist local governments in implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, to provide technical assistance, to provide funds for equipment and labor costs associated with emergency abatement of environmental and public health problems imposed on residents of California due to cross-border impacts of pollutants originating from Baja California, and to provide analytical and scientific equipment and services needed by border area public agencies to identify and monitor the sources of environmental and public health threats posed by the cross-border transmission of environmental pollutants and toxics.

This bill would require the ~~California Environmental Protection Agency, the State Water Resources Control Board, and the Colorado River Basin Regional Water Quality Control Board~~ to take all necessary

~~action to provide support to the City of Calexico and County of Imperial to implement California-Mexico Border Relations Council to coordinate the activities of state agencies to initiate and develop the New River Public Health Improvement Project, as defined. The agency and those boards would be required to work with appropriate governmental and nongovernmental organizations on the California-Mexico border to establish cooperative water monitoring, inspection, and technical assistance programs, to assist in efforts to oversee the design, construction, operation and maintenance of federally funded wastewater projects in Mexicali, Mexico, and to expedite the issuance of any necessary waste discharge requirements. Those boards would be required to expedite the development of water quality objectives and total maximum daily loads for the New River pursuant to the federal Clean Water Act. The bill would require the agency and the State Water Resources Control Board to facilitate compliance by the International Boundary and Water Commission, United States Section, with legal requirements in connection with the discharge of waste into the New River, to seek funding to carry out the above provisions and, by January 31, 2010, to submit to the Legislature, a description of the resources and the amount of funds necessary to implement the above provisions with specified objectives. The bill would create the New River Improvement Project Account in the fund and moneys in the account, upon appropriation by the Legislature, would be expended for activities related to the New River.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section ~~71105~~ 71103.5 is added to the Public
2 Resources Code, to read:
3 ~~71105:~~
4 71103.5. (a) The Legislature finds and declares all of the
5 following:
6 (1) The New River poses an imminent and severe threat to the
7 public health of residents of Calexico, California and adjacent
8 communities in Imperial County. Since the 1940s, the New River
9 has been recognized as a significant pollution and human health
10 problem, primarily because of extremely high concentrations of
11 fecal coliform bacteria. The waterway's pathogens include

1 pathogens that cause tuberculosis, encephalitis, polio, cholera,
2 hepatitis, and typhoid; levels for many of these contaminants are
3 in violation of federal, state, and Mexican standards by several
4 hundredfold.

5 (2) The New River is listed as an impaired river by the United
6 States Environmental Protection Agency due to low dissolved
7 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
8 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
9 mercury, nutrients, pathogens, ~~PCBs~~ *polychlorinated biphenyls*
10 (*PCBs*), sediment, selenium, toxaphene, toxicity, trash, and volatile
11 organic compounds (VOCs).

12 (3) The New River is a major contributor of pollution to the
13 Salton Sea, and failure to address water quality problems in the
14 New River are impeding the ability of the state to implement laws
15 and programs designed to restore and protect this important
16 environmental and wildlife habitat resource.

17 (b) As used in this section, the following terms have the
18 following meanings:

19 (1) "Agency" means the California Environmental Protection
20 Agency.

21 (2) "Boards" means the State Water Resources Control Board
22 and the Colorado River Basin Regional Water Quality Control
23 Board.

24 (3) "City" means the City of Calexico, California.

25 (4) "*Council*" means the *California-Mexico Border Relations*
26 *Council established pursuant to Section 8711 of the Government*
27 *Code*.

28 ~~(4)~~

29 (5) "County" means the County of Imperial, California.

30 ~~(5)~~

31 (6) "IBWC" means the International Boundary and Water
32 Commission, United States Section.

33 ~~(6) "New River Public Health Improvement Project" or "project"~~
34 ~~means a project that consists of sewage treatment, pollution~~
35 ~~prevention, the encasing and piping of the New River in Calexico,~~
36 ~~and the restoration and enhancement of the New River channel to~~
37 ~~protect human health and the natural environment as authorized~~
38 ~~in Section 7043.5 of the Water Code.~~

39 ~~(e) The agency and the boards, to the extent permitted by law,~~
40 ~~shall take all necessary actions under this section to provide support~~

1 ~~to the city and county to implement the project for the~~
2 ~~California-Baja border region.~~

3 (7) *“New River Improvement Project” or “project” means a*
4 *project to study, monitor, restore, and enhance the waters and*
5 *channel of New River in the County of Imperial to protect both*
6 *human health and the natural environment.*

7 (c) *Pursuant to the authority granted to the council under*
8 *Section 8712 of the Government Code, the council shall coordinate*
9 *the activities of state agencies to initiate and develop the New*
10 *River Improvement Project.*

11 (d) ~~To the extent permitted by law, the agency and the boards~~
12 ~~council shall work with appropriate binational, federal, state, local,~~
13 ~~and nongovernmental organizations on both sides of the~~
14 ~~California-Mexico border to establish cooperative water quality~~
15 ~~monitoring, public health studies, inspection, and technical~~
16 ~~assistance programs as needed to support and implement the~~
17 ~~project.~~

18 (e) ~~In order to support the implementation of the project, the~~
19 ~~boards shall expedite the development of water quality objectives,~~
20 ~~and total maximum daily loads pursuant to Section 303(d) of the~~
21 ~~federal Clean Water Act (33 U.S.C. Sec. 1313(d)), for the New~~
22 ~~River.~~

23 (f) ~~The agency and the State Water Resources Control Board~~
24 ~~shall facilitate compliance by the IBWC with this section and the~~
25 ~~federal Clean Water Act in connection with the discharge of waste~~
26 ~~into the New River.~~

27 (g) ~~The agency and the boards, to the extent permitted by law,~~
28 ~~shall assist the IBWC in its efforts to oversee the design,~~
29 ~~construction, operation, and maintenance of federally funded~~
30 ~~wastewater projects in Mexicali, Mexico, and to expedite the~~
31 ~~issuance of any necessary waste discharge requirements in~~
32 ~~accordance with the National Pollutant Discharge Elimination~~
33 ~~System (NPDES) permit program.~~

34 (h) ~~The agency and the State Water Resources Control Board~~
35 ~~shall seek funding from the United States Environmental Protection~~
36 ~~Agency, the International Boundary and Water Commission, the~~
37 ~~Border Environment Cooperation Commission, the North American~~
38 ~~Development Bank, and other agencies as necessary to carry out~~
39 ~~this section.~~

1 ~~(i) The agency and the State Water Resources Control Board~~
2 ~~shall prepare and submit to the Legislature, on or before January~~
3 ~~31, 2010, a description of the resources and the amount of funds~~
4 ~~necessary to comply with this section. The agency and the State~~
5 ~~Water Resources Control Board shall include with this description~~
6 ~~information relating to any action taken pursuant to subdivisions~~
7 ~~(d) to (g), inclusive.~~

8 ~~(e) The objectives of the project shall include all of the~~
9 ~~following:~~

10 ~~(1) Identifying potential funds for, and potential lead agencies~~
11 ~~that would be responsible for, environmental reviews of activities~~
12 ~~related to the New River that may be subject to the requirements~~
13 ~~of the California Environmental Quality Act (Division 13~~
14 ~~(commencing with Section 21000)), the federal National~~
15 ~~Environmental Policy Act of 1969 (42 U.S.C. Secs. 4321 et seq.),~~
16 ~~or both of those acts.~~

17 ~~(2) Expediting the development of water quality objectives and~~
18 ~~total maximum daily loads pursuant to Section 303(d) of the federal~~
19 ~~Clean Water Act (33 U.S.C. Sec. 1313(d)) for the New River.~~

20 ~~(3) Coordinating the state's compliance responsibilities under~~
21 ~~the federal Clean Water Act in connection with the discharge of~~
22 ~~waste and pollution into the New River.~~

23 ~~(4) Providing guidance for an entity undertaking activities to~~
24 ~~remediate the New River in compliance with the National Pollutant~~
25 ~~Discharge Elimination System (NPDES) permit program.~~

26 ~~(f) The New River Improvement Project Account is hereby~~
27 ~~created in the California Border Environmental and Public Health~~
28 ~~Protection Fund to receive moneys for activities related to the New~~
29 ~~River from sources identified in Section 71101. Upon appropriation~~
30 ~~by the Legislature, moneys in the account shall be expended to~~
31 ~~implement the purposes of this section and for purposes identified~~
32 ~~in Section 71102 that are related to the New River.~~